

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 337

Short Title: Disclosure of Push Polls.

(Public)

Sponsors: Senators Allran; Ballantine, Cochrane, Foxx, Moore, Webster, and Weinstein.

Referred to: Judiciary I.

March 11, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE DISCLOSURE STATEMENTS ON PUSH POLLS.

The General Assembly of North Carolina enacts:

Section 1. Article 22A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-278.16A. Disclosure requirements on push polls.

(a) 'Push Poll' Defined. – For the purpose of this section, 'push poll' means a telephone call that:

- (1) Has the appearance of a political poll; and
- (2) Has the effect of disseminating any derogatory statement or statements or derogatory information about an elected official or a candidate for public office, or which has the effect of casting that elected official or candidate for public office in a false light.

(b) Disclosure Required. – No telephone call that is a push poll shall be made unless at the beginning of the call the caller makes the following statement: 'This is [name of caller] calling from [city and state from which the call originates]. I am making this call at the direction of [name of company, organization, or other entity conducting the push poll]. It is paid for by [name of client paying the entity conducting the poll]. This call is made supporting [name of any candidate the call is intended to support] for [name of office that candidate seeks] and opposing [name of any candidate the call is

1 intended to oppose] for [name of office that candidate seeks]. This call was authorized by
2 [name of any candidate who authorized the push poll or who established or directs a
3 political committee that authorized the push poll], a candidate for [office that candidate
4 seeks] (or This call was not authorized by any candidate).' If any of the entities required
5 to be mentioned in the statement is a political party committee, the disclosure shall use
6 the name of the party as it appears on the ballot. If any of the entities required to be
7 mentioned is a political committee covered by the provisions of G.S. 163-278.7(b)(1), the
8 disclosure shall use the name required to be used by that subdivision.

9 (c) Criminal Penalty. – A violation of this section is a Class 1 misdemeanor.

10 (d) Civil Remedy. – Pursuant to the conditions established in subdivisions (1), (2),
11 and (3) of this subsection, a candidate for an elective office who complied with the
12 disclosure requirements of this section throughout that candidate's entire campaign shall
13 have a monetary remedy in a civil action against (i) an opposing candidate or candidate
14 committee that has sponsored a push poll regarding the plaintiff candidate violating these
15 disclosure requirements and (ii) against any political party organization, political action
16 committee, or individual whose push poll regarding the plaintiff candidate violates these
17 disclosure requirements:

18 (1) Any plaintiff candidate in a statewide race in an action under this
19 section shall complete and file a Notice of Complaint Regarding Failure
20 to Disclose Push Polls with the State Board of Elections after the call
21 but no later than the first Friday after the Tuesday on which the election
22 occurred. Candidates in nonstatewide races may file the notice during
23 the same time period with one county board of elections within the
24 electoral area in which they are candidates. The timely filing of this
25 notice preserves the candidate's right to bring an action in superior court
26 any time within 90 days after the election. A candidate shall bring the
27 civil action in the county where the candidate filed the notice.

28 (2) Upon receiving a favorable verdict in accordance with existing law, the
29 plaintiff candidate shall receive a monetary award of actual damages.

30 The court shall award reasonable attorneys' fees to a plaintiff
31 candidate who prevails in an action under this section. The plaintiff
32 candidate may bring the civil action personally or authorize his or her
33 candidate campaign committee to bring the civil action.

34 (3) A candidate who violates the disclosure requirements of State law in
35 this section and that candidate's campaign committee shall be jointly
36 and severally liable for the payment of damages and attorneys' fees. If
37 the candidate is held personally liable for any payment of damages or
38 attorneys' fees, the candidate shall not use or be reimbursed by funds
39 from the candidate's campaign committee in paying any amount."

40 Section 2. This act becomes effective January 1, 2000.